

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2020

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.9270 , 9275 & 9287 of 2020

and

WMP. Nos.11303, 11334 & 11301 of 2020

Urbanclap Technologies India Pvt Ltd,
(Rep by its Director) No.C. 32A,
Cipet Road, Thiru.Vi. Ka.Industrial Estate,
Guindy, Chennai- 600 032.

...Petitioner in all WPs

Vs

- 1 State Tax Officer,
Group-II, Inspection-II No.1, PAPJM Building,
Greams Road, Chennai-600 006.
- 2 Joint Commissioner (ST,
Intelligence- II No.1, PAPJM Building,
Greams Road, Chennai- 600 006.
- 3 State Tax Officer,
Group- VIII, Inspection-II, No.1,
PAPJM Building, Greams Road,
Chennai- 600 006.
- 4 Commissioner of Commercial Taxes,
Chepauk Chennai- 600 005.

... Respondent in all WPs

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorari to call for the records relating to the impugned order in GST No.33AABCU7755Q1ZN/ 2017- 18, 2019-20 & 2018-19 dated 14.02.2020 passed by the 1st Respondent and the consequential recovery notice in Form GST DRC -07 dated 28.02.2020 issued by the 1st Respondent quash the same.

For Petitioner : Mr.R.Parthasarathy

For Respondents : Mr.Mohammed Shaffiq
Special Government Pleader

COMMON ORDER

Heard Mr.R.Parthasarathy, learned counsel for the petitioner and Mr.Mohammed Shaffiq, learned Special Government Pleader for the respondents.

2. The challenge is to three orders of assessment, all dated 14.02.2020, passed in terms of the provisions of the Central Goods and Services Tax, 2017 (in short 'Act') for the periods 2017-18 to 2019-20.

3. The main ground agitated and argued before me is the violation of the principles of natural justice. Though no counters have been filed in the matter, Mr.Shaffiq, learned Special Government Pleader is armed with instructions and ready to proceed. He fairly states that effective opportunity, as urged, does not appear to have been extended to the petitioner insofar as personal hearing

notice was issued on 13.02.2020 listing the matter for hearing on 14.02.2020, the very next day and the impugned orders have been passed on the same day.

4. In this context, I may refer to a decision of a learned Single Judge of this Court in *S.Velu Palandar V. Deputy Commercial Tax Officer* (29 STC 151) to the effect that the Assessing Officer, in all fairness, should wait till the end of the working day when personal hearing was fixed, before finalizing the assessment. Finalization of assessment on the same day when the matter was listed for hearing would militate against the requirement of natural justice. At paragraph Nos.5 and 6, the learned Judge states as follows:

5. I am not inclined to go into the merits, as I am fairly satisfied that the petitioner did not have an effective opportunity to state his objections and sustain his case that the goods in question cannot once over be subjected to tax, as, in law, they are liable to sales tax at one single point. The main contention of the learned counsel for the petitioner is that the fixation of time-limit during the working hours of a notified date is by itself a method which militates against the principles of natural justice and fair hearing. If any quasi-judicial Tribunal gives a party before it an opportunity to explain himself or herself to a particular action proposed by the said authority, then, it would be futile to fix a particular hour of a day as the outer limit for making such submissions. It would be normally difficult even for such an authority who fixes such an outer limit, to obey it itself for all purposes. There may be instances where the authority may not be in a position to take up the case on that date due to official pressure or otherwise. If an opportunity is given to a party to explain itself or submit its objections, such an opportunity must be realistic and not notional.

6. If any time, such as the one given in this case, is given, the normal presumption is that the person who is to state his objections can file the same before the expiry of the working hours of that date. Such outer limit may be fixed for administrative con-

venience ; but, if it comes to the question of appreciation of rights and obligations of parties, equity and justice interfere and compel courts to afford a reasonable and effective opportunity to persons aggrieved and affected to state their objections by the end of the working day in question notwithstanding the fact that an hour, a minute or a second of the day is noted in that order.

5. In the light of the aforesaid discussion, the impugned orders are set aside. Let notice be issued afresh to the petitioner to enable them to appear and make its submissions and let orders be passed within a period of eight (8) weeks from date of first hearing, in accordance with law.

6. These writ petitions are disposed in the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

31.08.2020

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

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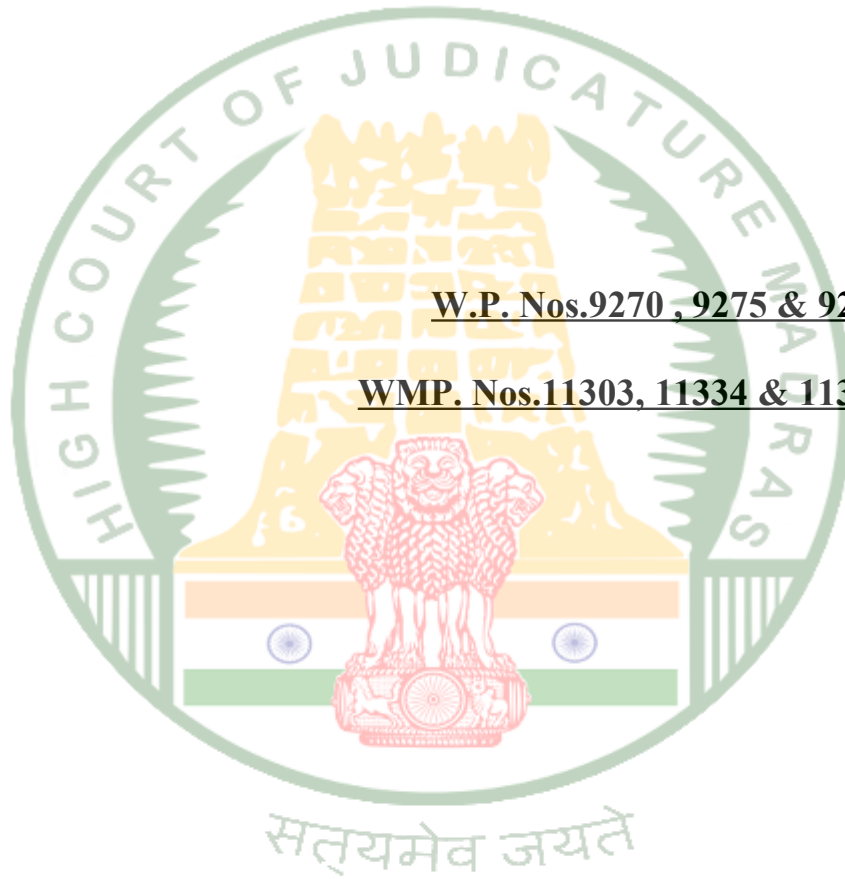
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Dr.ANITA SUMANTH, J.

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